REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-16, 24-43 and 51-68 are pending in the present application. Claims 1, 7, 29-43, 51-55, 61 and 65 have been amended by the present amendment.

In the outstanding Office Action, the specification was objected to; claims 1-16, 24-43 and 51-68 were rejected under 35 U.S.C. § 112, first paragraph; and claims 1-16, 24-43 and 51-68 were indicated as allowable in light of the rejection of 35 U.S.C. § 112, first paragraph.

Applicants thank the Examiner for the indication of allowable subject matter and for discussing this application with Applicants' representative on May 5, 2009. During the discussion, the 35 U.S.C. § 112, first paragraph rejection was discussed. Comments presented during the discussion are reiterated below.

Regarding the objection to the specification, the appropriate claims have been amended to use the term "optical recording unit" as suggested in the Office Action. Accordingly, it is respectfully requested the objection to the specification be withdrawn.

Further, regarding the rejection of claims 1-16, 24-43 and 51-68, the appropriate claims have been amended to clarify that at least one second temporary defect management area with one of variable sizes is allocated to the recording medium. These features are supported at least by Figs. 4 and 5 and the corresponding description of the present application. For example, paragraph [0041] of the present application clarifies that the IDMA can be allocated with $Px256$ (or $Qx256$) clusters. In this example, $P=16N$, which indicates one variable size for P. See also paragraph [0053] of the present application which illustrates a second example in which $P=N/4$,

which indicates another variable size for P. That is, the P (or Q) is one of variable sizes. Therefore, it is respectfully submitted the present specification supports the claimed features.

In response to the previously presented comments, the Advisory Action indicates that the specification specifically discloses that the IDMAs have "a variable size" and not "one of variable sizes" as recited in the claims. The Office Action also states that paragraph [0052] of the specification discloses that the size of the IDMAs in the inner spare area (ISA0 and ISA1) can be varied to Q X 256 clusters and the size of the IDMAs in the outer spare area (OSA0 and OSA1) can be varied to P X 256 clusters which is contrary to Applicants arguing that the IDMA can be allocated with P X 256 or Q X 256 clusters.

The following comments are provided to illustrate why the phrase "one of variable sizes" is being used. In more detail, the original intention of the applicant in using "having a variable size" is that an allocation of an IDMA is not a predetermined fixed size such as that in TDMA. In particular, the TDMA has a predetermined size, for example, 2048 clusters. On the contrary, the size of the IDMA in the present invention can be allocated with a non-predetermined size, for example, P X 256 clusters. Namely, the TDMA is allocated with the same size, but the IDMA is not. In other words, the TDMA shall be allocated with only one size (e.g., 2048 clusters), but the IDMA can be allocated with one of a plurality of allocatable sizes (i.e., a size of a non-negative integer X 256 clusters). Thus, as described above, the non-negative image can be a plurality of different numbers which results in the IDMA being allocated with one of a plurality of allocatable sizes or one of variable sizes.

The use of the phrase "allocating defect management area with a variable size" can be misleading because once the particular variable size is selected, e.g., P=16N, the IDMA has that

size until it is changed. Thus, it is respectfully submitted the use of the phrase "one of variable sizes" better describes the IDMA as shown and described in the specification. Further, it is inevitable that a varying IDMA requires two steps. First, it must be allocated with one size and then it must be allocated with a different second size. Thus, it is respectfully submitted the IDMA has one of variable sizes.

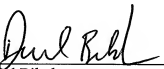Accordingly, it is respectfully requested this rejection be withdrawn.

CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact David Bilodeau, Registration No. 42,325, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: June 16, 2009   Respectfully submitted,

By David Bilodeau
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